

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF LOUISIANA  
LAFAYETTE DIVISION

## CHANGE OF PLEA HEARING

Transcript of Proceedings before The Honorable  
Carol B. Whitehurst, United States Magistrate Judge,  
Lafayette, Lafayette Parish, Louisiana, commencing  
on September 27, 2022.

Appearances of Counsel:

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1 Appearances of Counsel  
2 continued:

3 For the defendant:

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(Lafayette, Lafayette Parish, Louisiana; September 27, 2022, in open court.)

THE CSO: All rise. United States District Court for the Western District of Louisiana is now in session, the Honorable Judge Carol Whitehurst presiding. God save the United States and this Honorable Court.

THE COURT: You may be seated. All right. We are here in the case of United States of America versus Tycoby Arceneaux, and it's Criminal Number 22-cr-62. Counsel please make your appearances.

MR. NICKEL: Good morning, Your Honor. John Nickel for the government. Seated with me at counsel table is Lauren Garner with the U. S. Attorney's Office.

THE COURT: All right.

MR. REGISTER: Harold Register, III, and seated with me  
is Mr. Garren Johnson, as well as Tycoby Arceneaux.

THE COURT: All right. We are here for a change of  
plea. Why don't we have Mr. Arceneaux come forward with counsel.

Mr. Arceneaux, we're going to swear you in at this time, so if you would raise your right hand.

COURTROOM DEPUTY: Do you solemnly swear or affirm that the testimony you give in this case will be the truth, the whole truth, and nothing but the truth, so help you God?

THE DEFENDANT: Yes, sir.

THE COURT: Mr. Arceneaux, do you understand that now

1 that you have been worn your answers to my questions will subject  
2 you to the penalty of perjury or of making a false statement if  
3 you don't answer truthfully?

4 THE DEFENDANT: Yes, ma'am.

5 THE COURT: All right. You'll need to speak a little  
6 bit louder into that microphone because we do have a court  
7 reporter that's taking down the proceedings, and you responded,  
8 yes, that you do you understand?

9 THE DEFENDANT: Yes, ma'am.

10 THE COURT: All right. Do you understand that I'm a  
11 United States magistrate judge. The district judge in your case  
12 is Judge Joseph?

13 THE DEFENDANT: Yes, ma'am.

14 THE COURT: And do you understand that, as a magistrate  
15 judge, I'm not empowered to accept a guilty plea in a felony  
16 case, but I am empowered to talk to you today and to decide  
17 whether or not to recommend to Judge Joseph that he accept your  
18 guilty plea. Do you understand that?

19 THE DEFENDANT: Yes, ma'am.

20 THE COURT: So what I'll do today with your consent is  
21 I will preside over this hearing instead of Judge Joseph, and  
22 I'll talk to you regarding your case and regarding your proposed  
23 plea, and after this hearing a transcript will be prepared by the  
24 court reporter, and that transcript will be provided to  
25 Judge Joseph, and he will ultimately decide whether or not to

1 accept or reject your guilty plea based on a recommendation that  
2 I will make to him. Do you understand that?

3 THE DEFENDANT: Yes, ma'am.

4 THE COURT: And do you waive your right to appear  
5 before Judge Joseph and instead agree to consent to appear before  
6 me today?

7 THE DEFENDANT: Yes, ma'am.

8 THE COURT: All right. I do have a written Consent to  
9 Plead Before a United States Magistrate Judge in a Felony Case  
10 and Waiver of Objection to Report and Recommendation which has  
11 been presented to me. It has been signed by Mr. Arceneaux and  
12 his counsel, Mr. Johnson, as well as counsel for the government,  
13 Mr. Nickel, and I am signing that right now, and I will have that  
14 filed in the record.

15 All right. Mr. Johnson, how does Mr. Arceneaux intend  
16 to plead?

17 MR. JOHNSON: He intends to plead guilty.

18 THE COURT: And is that to Count 1 of the indictment,  
19 charging possession with intent to distribute methamphetamine?

20 MR. JOHNSON: That's correct, Your Honor.

21 THE COURT: All right. Mr. Arceneaux, is that correct?  
22 Do you intend to enter a guilty plea today to Count 1 of the  
23 indictment?

24 THE DEFENDANT: Yes, ma'am.

25 THE COURT: All right. Mr. Arceneaux, before

1 recommending to Judge Joseph that he accept your guilty plea,  
2 there are a number of questions I'll need to ask you to assure  
3 myself that you are entering a valid plea. So if you don't  
4 understand my questions or if you need me to repeat something or  
5 if you want to take some time to consult with Mr. Register or  
6 Mr. Johnson, just let me know because it's very important, and  
7 it's vital to a plea and essential that you understand each of  
8 the questions before you answer. Okay?

9 THE DEFENDANT: Yes, ma'am.

10 THE COURT: So Mr. Arceneaux, how old are you?

11 THE DEFENDANT: 30.

12 THE COURT: And how far did you go in school?

13 THE DEFENDANT: 9th.

14 THE COURT: All right. Can you read, write, and  
15 understand the English language?

16 THE DEFENDANT: Yes, ma'am.

17 THE COURT: All right. Have you taken any drugs, any  
18 medicines, any pills of any kind, or have you drunk any alcoholic  
19 beverages in the last 24 hours?

20 THE DEFENDANT: No, ma'am.

21 THE COURT: And have you ever been treated for any  
22 mental illness or addiction to alcohol or narcotic drugs?

23 THE DEFENDANT: No, ma'am.

24 THE COURT: All right. The reason I ask these  
25 questions is to make sure that you do understand what's going on

1 here today and that you haven't taken anything or done anything  
2 that would interfere with your ability to understand the  
3 proceedings. Okay?

4 THE DEFENDANT: Yes, ma'am.

5 THE COURT: And do you understand what's going on here  
6 today?

7 THE DEFENDANT: Yes, ma'am.

8 THE COURT: And what are you doing here? Can you tell  
9 me in your own words?

10 THE DEFENDANT: Excuse me?

11 THE COURT: Can you tell me in your own words what you  
12 are doing here today?

13 THE DEFENDANT: Pleading guilty.

14 THE COURT: And do you know what you are pleading to?

15 THE DEFENDANT: Count 1, with intent to distribute  
16 meth.

17 THE COURT: All right. Mr. Register or Mr. Johnson, do  
18 y'all have any doubts as to the competency of Mr. Arceneaux to  
19 proceed today?

20 MR. JOHNSON: I don't, Your Honor.

21 MR. REGISTER: No, ma'am.

22 THE COURT: All right. Mr. Nickel, to the extent  
23 you've had any interactions with Mr. Arceneaux, do you have any  
24 doubt as to his competency?

25 MR. NICKEL: No, Your Honor.

1                   THE COURT: All right. Based on the representation of  
2 counsel, as well as based on the answers to my questions by  
3 Mr. Arceneaux and my interactions with Mr. Arceneaux, I do find  
4 that he is competent to enter a plea in this matter today.

5                   Mr. Arceneaux, have you had ample time to discuss your  
6 case with your lawyers?

7                   THE DEFENDANT: Yes, ma'am.

8                   THE COURT: And are you satisfied with their  
9 representation?

10                  THE DEFENDANT: Yes, ma'am.

11                  THE COURT: All right. And Mr. Johnson, has he been  
12 furnished with a copy of the indictment?

13                  MR. JOHNSON: Yes, ma'am.

14                  THE COURT: And does he waive the reading of the  
15 indictment?

16                  MR. JOHNSON: He does, Your Honor.

17                  THE COURT: Okay. Mr. Arceneaux, at this time I'm  
18 going to review with you your constitutional rights that you are  
19 necessarily waiving by pleading guilty.

20                  Do you understand that, under the Constitution and laws  
21 of the United States, you're entitled to a trial by a jury of 12  
22 people on the charges contained in the indictment, and in order  
23 to convict you, all 12 of the jurors would have to agree as to  
24 your guilt?

25                  THE DEFENDANT: Yes, ma'am.

1                   THE COURT: Do you understand that you have the right  
2 to plead not guilty and the right to persist in your plea of not  
3 guilty?

4                   THE DEFENDANT: Yes, ma'am.

5                   THE COURT: Do you understand that at trial you'd be  
6 presumed to be innocent, and the government would have to  
7 overcome that presumption and prove you guilty by competent  
8 evidence and beyond a reasonable doubt, and you would not have to  
9 prove that you were innocent?

10                  THE DEFENDANT: Yes, ma'am.

11                  THE COURT: Do you understand that, in the course of  
12 the trial, the witnesses for the government would have to come to  
13 court and testify in your presence?

14                  THE DEFENDANT: Yes, ma'am.

15                  THE COURT: And your attorneys could cross-examine  
16 those witnesses, they could object to evidence offered by the  
17 government, and they could offer evidence on your behalf?

18                  THE DEFENDANT: Yes, ma'am.

19                  THE COURT: And do you understand that at trial you'd  
20 have the right to testify if you chose to do so, but you'd also  
21 have the right not to be compelled to incriminate yourself, so  
22 you'd have the right not to testify?

23                  THE DEFENDANT: Yes, ma'am.

24                  THE COURT: And do you understand that at trial you  
25 have the right to summon or call witnesses to testify on your

1 behalf?

2 THE DEFENDANT: Yes, ma'am.

3 THE COURT: If I recommend accepting your guilty plea,  
4 do you understand that you'll waive your right to trial and all  
5 the other rights I've discussed with you, and there will be no  
6 further trial, and there will simply be entered a judgment of  
7 guilty, and you'll be sentenced on the basis of your plea. Do  
8 you understand that?

9 THE DEFENDANT: Yes, ma'am.

10 THE COURT: In pleading guilty, do you also understand  
11 that you waive your right not to incriminate yourself since I  
12 necessarily have to ask you questions about what you did in order  
13 to satisfy myself that you are guilty as charged? Do you  
14 understand that?

15 THE DEFENDANT: Yes, ma'am.

16 THE COURT: So what's going to happen toward the end of  
17 this hearing is I'm going to review with you a document that's  
18 part of your plea packet entitled Stipulated Factual Basis, and  
19 in order for you to answer my questions regarding that document,  
20 you would necessarily have to incriminate yourself because you  
21 are admitting and acknowledging your guilt in order to plead  
22 guilty. Do you understand that?

23 THE DEFENDANT: Yes, ma'am.

24 THE COURT: And are you willing to waive your right to  
25 remain silent and your right not to incriminate yourself?

1                   THE DEFENDANT: Yes, ma'am.

2                   THE COURT: And are you willing to waive and give up  
3 your right to trial and all the other rights I've discussed with  
4 you?

5                   THE DEFENDANT: Yes, ma'am.

6                   THE COURT: All right. At this time I'm going to turn  
7 to the document in the plea packet entitled Elements of the  
8 Offense. In that document, it states that to be found -- Of  
9 course you're charged in Count 1 of the Indictment with  
10 possession with intent to distribute methamphetamine in violation  
11 of 21 U.S.C. 841(a)(1) and 841(b)(1)(A).

12                  To be found guilty of the offense charged in Count 1,  
13 the government must prove each of the following elements beyond a  
14 reasonable doubt:

15                  First: That you knowingly possessed a controlled  
16 substance;

17                  Second: That the substance was, in fact,  
18 methamphetamine;

19                  Third: That you possessed the substance with the  
20 intent to distribute it; and

21                  Fourth: That the quantity of the substance was at  
22 least 500 grams or more of a mixture or substance containing a  
23 detectable amount of methamphetamine, its salts, isomers, or  
24 salts of its isomers. Do you understand the Elements of the  
25 Offense?

1                   THE DEFENDANT: Yes, ma'am.

2                   THE COURT: This document also contains definitions of  
3 "possess with intent to distribute." It states that it means to  
4 possess with intent to deliver or transfer possession of a  
5 controlled substance to another person with or without any  
6 financial interest in the transaction. Do you understand that?

7                   THE DEFENDANT: Yes, ma'am.

8                   THE COURT: If the case were to proceed to trial, the  
9 government would also have the burden of proving proper venue.  
10 That is, they'd have to prove by a preponderance of the evidence  
11 that the offense was begun, continued, or completed in one of the  
12 parishes that make up the Western District of Louisiana, and it's  
13 my understanding that, in the Stipulated Factual Basis, the  
14 parties agree that this offense did occur within the Western  
15 District of Louisiana. Is that correct?

16                   THE DEFENDANT: Yes, ma'am.

17                   THE COURT: All right. Mr. Arceneaux, the next  
18 document I'll review with you is the document entitled  
19 Understanding of Maximum Penalty and Constitutional Rights. On  
20 the first page of that document in bold, it says:

21                   Penalty - Count 1: And it states that the penalty for  
22 the count to which you are pleading guilty is a term of  
23 imprisonment of not less than 10 years nor more than life.  
24 However, if you have one prior conviction for a serious drug  
25 felony or a serious violent felony, the penalty is not less than

1 15 years and not more than life, and if you have two or more  
2 prior convictions for a serious drug felony or serious violent  
3 felony, the penalty is not less than 25 years and not more than  
4 life, and it also has a fine of not more than \$10,000 or up to  
5 \$20,000 if a prior serious drug felony or serious violent felony  
6 is proven, and the fine could be in addition to the term of  
7 imprisonment.

8 And it also has a term of supervised release of at  
9 least five years or at least 10 years if a serious drug felony or  
10 serious violent felony is proven. A special assessment of \$100  
11 is also part of the penalty.

12 I did see, I believe, in the plea agreement itself,  
13 Mr. Nickel, that the -- With regard to the penalty, it doesn't  
14 state the enhanced penalties. I'm not sure if -- and of course,  
15 I have advised him of the possibility of enhanced penalties, but  
16 the plea agreement itself does not -- I don't think I had seen  
17 that it states enhanced penalties.

18 MR. NICKEL: Yes, Your Honor, the enhanced penalties  
19 out of Statute 841 would still apply.

20 THE COURT: Okay. I just didn't note it in the plea  
21 agreement itself.

22 All right. Do you understand the maximum penalty  
23 associated with the count to which you are pleading?

24 THE DEFENDANT: Excuse me?

25 THE COURT: Do you understand the maximum penalty that

1 I just reviewed with you for the count to which you are pleading  
2 guilty?

3 THE DEFENDANT: Yes, ma'am.

4 THE COURT: Also this document contains the  
5 constitutional rights that I reviewed with you earlier that you  
6 are waiving by pleading guilty. Is that your signature on this  
7 document, and did you sign this only after reviewing it  
8 thoroughly with your lawyers?

9 THE DEFENDANT: Yes, ma'am.

10 THE COURT: All right.

11 MR. JOHNSON: I'm sorry, Your Honor. My client wanted  
12 to ask me a quick question.

13 THE COURT: Sure.

14 (Defendant conferring with counsel.)

15 THE COURT: Are we okay to go forward?

16 MR. JOHNSON: I'm sorry. Yes, Judge.

17 THE DEFENDANT: Yes, ma'am.

18 THE COURT: All right. So we were just talking about  
19 the Affidavit of Maximum Penalty and the Understanding of Maximum  
20 Penalty and Constitutional Rights, and I discussed with you  
21 the -- a special assessment. Has the special assessment been  
22 paid?

23 MR. JOHNSON: I don't believe so. The hundred dollars?

24 THE COURT: Right, yes.

25 MR. JOHNSON: Not at this time, Your Honor.

1 THE COURT: Okay. Were you given the form for payment?

2 MR. REGISTER: Yes.

3 MR. JOHNSON: Yes, Your Honor.

4 THE COURT: Let me check one thing. All right. Also I  
5 would order at this time that the Court -- the Clerk of Court  
6 accept the defendant's payment of the special assessment or any  
7 fine or restitution prior to sentencing, and further order that  
8 restitution paid would be held by the Clerk of Court and not  
9 disbursed to any victim until the defendant has been sentenced  
10 and judgment has been entered.

11 And at this time I would refer to the Consent Decree of  
12 Forfeiture which is part of the plea agreement, and  
13 Mr. Arceneaux, this document states that you would forfeit any  
14 ownership rights you have to the Smith & Wesson AR15 rifle, and  
15 the \$8,002 in U. S. currency as a result of your plea and your  
16 conviction.

17 Did you sign this document only after reviewing it  
18 thoroughly with your lawyers, Mr. Arceneaux?

19 THE DEFENDANT: Yes, ma'am.

20 THE COURT: All right. Do you understand,  
21 Mr. Arceneaux, that in every criminal case in which a defendant  
22 may be sentenced to more than one year imprisonment, as in your  
23 case, that in addition to any maximum possible penalty, the Court  
24 shall order a term of supervised release to follow that term of  
25 imprisonment, and in your case the term of supervised release is

1 at least five years or at least 10 years if a prior serious drug  
2 felony or serious violent felony is proven. Do you understand  
3 that?

4 THE DEFENDANT: Yes, ma'am.

5 THE COURT: And do you understand that, while you're on  
6 supervised release, you will have to abide by any conditions that  
7 Judge Joseph imposes upon you, and that supervised release might  
8 be revoked if you violate any of those conditions?

9 THE DEFENDANT: Yes, ma'am.

10 THE COURT: And do you understand that, if supervised  
11 release is revoked for any reason, you may be imprisoned for the  
12 full term of supervised release without credit for time spent on  
13 postrelease supervision?

14 THE DEFENDANT: Yes, ma'am.

15 THE COURT: And do you also understand that a combined  
16 time spent in prison under a sentence of imprisonment and a  
17 subsequent revocation of supervised release could exceed the  
18 statutory maximum?

19 THE DEFENDANT: Yes, ma'am.

20 THE COURT: Do you understand that the offense to which  
21 you are pleading guilty is a felony offense, and that if your  
22 plea is accepted, you'll be adjudged guilty of that offense, and  
23 such adjudication may deprive you of valuable civil rights, such  
24 as the right to vote, the right to sit on a jury, and the right  
25 to possess a firearm?

THE DEFENDANT: Yes, ma'am.

THE COURT: Mr. Arceneaux, has anyone directly or indirectly threatened you or forced you to plead guilty or told you that if you didn't plead guilty other charges would be brought against you or some adverse action would be taken against you?

THE DEFENDANT: No, ma'am.

THE COURT: And I understand that there has been a plea agreement that has been entered into between you and your counsel and the U. S. Attorney's Office, and that plea agreement has been reduced to writing?

THE DEFENDANT: Yes, ma'am.

THE COURT: All right. And do you understand that plea agreements are permissible, and that you and all counsel have the duty to disclose the existence and the terms of any such agreement?

THE DEFENDANT: Yes, ma'am.

THE COURT: Mr. Nickel, I saw that the plea agreement does contain a motion for acceptance of responsibility?

MR. NICKEL: That's correct, Your Honor.

THE COURT: All right. Can you outline the additional terms of the plea agreement for the Court, please.

MR. NICKEL: Yes, Your Honor. In exchange for the defendant's plea of guilty to Count 1 of the indictment, the government agrees to dismiss the remaining counts of the

1 indictment after sentencing and agrees not to prosecute the  
2 defendant for any other offense known to our office based on the  
3 investigation which formed the basis of this indictment.

4 The government moves for the one-point reduction in  
5 offense level should the defense level -- should the defendant's  
6 offense level be 16 or greater. And also this plea includes, is  
7 a conditional plea in that the defendant does reserve his right  
8 to appeal the Court's adverse ruling as to the defendant's motion  
9 to suppress, and should such appeal be successful, defendant  
10 shall be allowed to withdraw his guilty plea.

11 THE COURT: All right. Mr. Johnson, do you agree with  
12 the terms of the plea agreement as stated by Mr. Nickel?

13 MR. JOHNSON: Yes, Your Honor.

14 THE COURT: Mr. Arceneaux, do you agree with the terms  
15 of the plea agreement?

16 THE DEFENDANT: Yes, ma'am.

17 THE COURT: All right. Mr. Nickel, before the plea  
18 agreement was executed, had you communicated to defense counsel  
19 any and all plea offers that the government was prepared to make?

20 MR. NICKEL: Yes, Your Honor.

21 THE COURT: Mr. Johnson, did you communicate to  
22 Mr. Arceneaux any and all plea agreements offered to you by the  
23 government?

24 MR. JOHNSON: Yes, ma'am.

25 THE COURT: Mr. Arceneaux, has anyone directly or

1 indirectly made any promises, other than the promises contained  
2 in the plea agreement, that induced you to plead guilty?

3 THE DEFENDANT: No, ma'am.

4 THE COURT: All right. And has anyone directly or  
5 indirectly made any prediction, prophecy, or promise to you as to  
6 what your sentence will be?

7 THE DEFENDANT: No, ma'am.

8 THE COURT: And do you understand that the United  
9 States Sentencing Commission has issued guidelines for judges to  
10 consider in determining an appropriate sentence in criminal  
11 cases?

12 THE DEFENDANT: Yes, ma'am.

13 THE COURT: And do you understand that, while Judge  
14 Joseph must consider those guidelines and use them as a  
15 benchmark, the United States Supreme Court has ruled that those  
16 guidelines aren't mandatory. So he can sentence you above or  
17 below the guidelines, depending on the specific facts of your  
18 case.

19 THE DEFENDANT: Yes, ma'am.

20 THE COURT: And have you and your attorneys discussed  
21 how those guidelines might apply in your case? Have they  
22 discussed the Sentencing Guidelines with you?

23 THE DEFENDANT: Yes, ma'am.

24 THE COURT: Mr. Johnson, y'all have talked about how  
25 the guidelines will apply?

1 MR. JOHNSON: Yes, ma'am.

2 THE COURT: Okay. And do you understand,  
3 Mr. Arceneaux, that if the government is agreeing not to  
4 prosecute other counts or charges, as they are in your case, this  
5 conduct might still be considered in the presentencing report,  
6 and it might increase the sentence to be imposed by the Court?

7 THE DEFENDANT: Yes, ma'am.

8 THE COURT: And do you understand that any  
9 recommendation of sentence agreed to by your counsel and the  
10 U. S. Attorney's Office is not binding on Judge Joseph and that  
11 you might on the basis of your guilty plea receive a more severe  
12 sentence than requested or recommended. Do you understand that?

13 THE DEFENDANT: Yes, ma'am.

14 THE COURT: And have y'all talked about the concept of  
15 relevant conduct, Mr. Johnson, and how it might affect the  
16 Sentencing Guidelines?

17 MR. JOHNSON: Yes, ma'am.

18 THE COURT: All right. Do you understand that,  
19 Mr. Arceneaux? There's a concept we call "relevant conduct" that  
20 could affect the sentencing guidelines in your case, meaning like  
21 other conduct other than what -- the charge you're pleading  
22 guilty to. Do you understand that?

23 THE DEFENDANT: Yes, ma'am.

24 THE COURT: All right. Mr. Nickel, does the government  
25 have any information, other than what's contained in the Plea

1 Agreement and in the Stipulated Factual Basis, as far as relevant  
2 conduct that might affect the Sentencing Guidelines, or is it all  
3 contained within this document?

4 MR. NICKEL: It should be contained within those  
5 documents and discovery. This was an isolated event, so nothing  
6 outside of that would affect it.

7 THE COURT: All right. Mr. Arceneaux, do you  
8 understand that under some circumstances you or the government  
9 might have the right to appeal any sentence that's imposed?

10 THE DEFENDANT: Yes, ma'am.

11 THE COURT: And do you understand that you might have  
12 the right to appeal in forma pauperis, meaning that you might not  
13 be responsible for certain fees associated with the appeal?

14 THE DEFENDANT: Yes, ma'am.

15 THE COURT: And do you also understand that parole has  
16 been abolished and that, if you are sentenced to a term of  
17 imprisonment, you won't be released on parole? Do you understand  
18 that? There's no parole in federal court. If you are sentenced  
19 to a term of imprisonment, you won't be released on parole. Do  
20 you understand?

21 THE DEFENDANT: Yes, ma'am.

22 THE COURT: All right. I talked to you earlier about a  
23 document that's part of your plea packet, and it's called the  
24 Stipulation in Support of Guilty Plea is what it's called. I'm  
25 going to review that document with you at this time and ask you

1 if you agree with the information contained in that document.

2 I'm going to start on paragraph 2 of the document. It  
3 states that (reading): On January 28, 2022, law enforcement  
4 officials executed a search warrant at XXXXXXXXXXXXXXXXXX,  
5 XXXXXXXXXXXXXXXXXX, Lafayette, Louisiana, 70503, and that was your  
6 apartment. Is that true?

7 THE DEFENDANT: Yes, ma'am.

8 THE COURT: Agents located approximately 4.6 kilograms  
9 of crystal methamphetamine in assorted vacuum sealed bags within  
10 a suitcase. Is that correct?

11 THE DEFENDANT: Yes, ma'am.

12 THE COURT: This suitcase was located in the living  
13 room area of the apartment, and agents also located a partially  
14 smoked hand-rolled blunt on the living room table. Is that  
15 information true?

16 THE DEFENDANT: Yes, ma'am.

17 THE COURT: They also located \$7,000 in cash in a  
18 bowl-shaped light cover hanging from the ceiling in the dining  
19 room area. Is that true?

20 THE DEFENDANT: Yes, ma'am.

21 THE COURT: And they also located a red and gray brick  
22 press with powder residue in the kitchen and a vacuum sealer. Is  
23 that correct?

24 THE DEFENDANT: Yes, ma'am.

25 THE COURT: Agents also located a money counter in a

1 cabinet under the sink in the hallway bathroom. Is that  
2 information true?

3 THE DEFENDANT: Yes, ma'am.

4 THE COURT: The total methamphetamine weight was  
5 4,596 grams. Is that correct?

6 THE DEFENDANT: Yes, ma'am.

7 THE COURT: And the parties agree that you did possess  
8 the methamphetamine with the intent to distribute it. Is that  
9 true?

10 THE DEFENDANT: Yes, ma'am.

11 THE COURT: And it states that you were arrested later  
12 on January 28, 2022, pursuant to a traffic stop and that agents  
13 located three vacuum-sealed bags in your vehicle with markings  
14 that matched those found on the vacuum-sealed bags containing the  
15 methamphetamine at your apartment. Is that true?

16 THE DEFENDANT: Yes, ma'am.

17 THE COURT: And you also had \$1,002 in currency in your  
18 pocket?

19 THE DEFENDANT: Yes, ma'am.

20 THE COURT: All right. And again, it states that you  
21 agree that all this took place in the Western District of  
22 Louisiana in Lafayette. Is that correct?

23 THE DEFENDANT: Yes, ma'am.

24 MR. REGISTER: And your Honor, with regard to the fact  
25 that this is a conditional plea, we want to reiterate for the

1 record, any admissions by Mr. Arceneaux with regard to the  
2 stipulated basis is still in accordance with the condition to  
3 reserve his right to contest his motion to suppress.

4 THE COURT: Yes, it is a conditional plea, and that is  
5 set forth in the plea agreement itself.

6 All right. Are there any filings to make at this time?

7 MR. NICKEL: Yes, Judge. At this time the government  
8 will move to file the original executed copies of the Elements of  
9 the Offense, the Understanding of Maximum Penalty and  
10 Constitutional Rights, the Plea Agreement itself, the Stipulated  
11 Factual Basis for the Guilty Plea, and the Consent to Plead  
12 Before the Magistrate Judge.

13 THE COURT: Any objections to the filings?

14 MR. JOHNSON: No objection.

15 MR. NICKEL: It also contains the Consent Decree of  
16 Forfeiture.

17 THE COURT: All right. That will be filed in the  
18 record.

19 So Mr. Arceneaux, how do you plead to Count 1 of the  
20 indictment, guilty or not guilty?

21 THE DEFENDANT: Guilty.

22 THE COURT: All right. Since you acknowledge that you  
23 are in fact guilty as charged in Count 1, since you know your  
24 right to trial and what the maximum possible punishment is, and  
25 since you are voluntarily pleading guilty, I will recommend to

1 Judge Joseph that he accept your guilty plea and enter a judgment  
2 of guilty based on your plea.

3 It's my finding and recommendation to Judge Joseph  
4 that, in the case of United States of America versus Tycoby  
5 Arceneaux, Criminal Number 22-cr-62, that Mr. Arceneaux is fully  
6 competent and capable of entering an informed plea and that this  
7 plea of guilty is knowing and voluntary and supported by an  
8 independent basis in fact, containing each of the essential  
9 elements of the offense contained in Count 1 of the indictment  
10 and that Judge Joseph therefore accept Mr. Arceneaux's guilty  
11 plea and adjudge Mr. Arceneaux guilty of that offense.

12 Mr. Arceneaux, I'm going to order that a Presentence  
13 Investigation Report be done. The probation officer is going to  
14 meet with you to interview you for that report. You have the  
15 right to have your counsel present during the interview, and that  
16 report will go to Judge Joseph for him to decide an appropriate  
17 sentence in your case. So I urge you to cooperate with the  
18 probation officer.

19 Once the report is completed, it will go to your  
20 attorneys, and they will review that report with you. You'll  
21 have the opportunity to object to the guideline calculations.  
22 Also you can object to any factual information in the report if  
23 you believe it wasn't reported correctly.

24 You will also have the opportunity to speak at your  
25 sentencing or you can let your attorneys speak on your behalf.

1 The sentencing is going to be set for December 16th at 11:00  
2 before Judge Joseph in Lafayette. He's in Courtroom 1.

3 Any presentence memorandum that the defense may wish to  
4 file will be due 14 days prior to the sentencing date, and the  
5 government's response would be due seven days thereafter. If  
6 counsel intend to submit evidence or testimony at the sentencing  
7 hearing, let Judge Joseph's chambers know so he can schedule the  
8 adequate time necessary for the hearing.

9 It's my order that the court reporter transcribe this  
10 hearing and file a copy of the transcript into the record of this  
11 case and furnish a copy of the transcript to Judge Joseph and to  
12 me.

13 And it's my further order that the clerk notify both  
14 parties of the filing of the transcript, and at the time it is  
15 filed, I will issue my written report and recommendation to  
16 Judge Joseph regarding the plea.

17 MR. JOHNSON: Thank you, Your Honor. Did you mention a  
18 time? You said December 14th?

19 THE COURT: Did I not say a time? 11:00 a.m.  
20 December 16th, 11:00 with Judge Joseph. You'll get a notice of  
21 that also, a written notice.

22 Is there anything else that needs to come before the  
23 Court in this case?

24 MR. NICKEL: Nothing from the government, Your Honor.  
25 Thank you.

1 MR. JOHNSON: Nothing, Your Honor.

2 THE COURT: All right. Good luck to you,  
3 Mr. Arceneaux.

4 Court is adjourned.

5 (Hearing concluded.)

6 \* \* \* \* \*

7 **C E R T I F I C A T E**

8  
9  
10 I, Cathleen E. Marquardt, RMR, CRR, Federal Official Court  
11 Reporter, do hereby certify this 7th day of December, 2022, that  
12 the foregoing pages 1-27 constitute a true transcript of  
13 proceedings had in the above-entitled matter.

14 */s/ Cathleen E. Marquardt*  
15 Federal Official Court Reporter

16 \* \* \* \* \*

17 **REDACTION CERTIFICATION**

18 I hereby certify this 11th day of April, 2023, that the  
19 foregoing is a true and correct copy of the transcript originally  
20 filed with the Clerk of Court on December, 7, 2022, and  
21 incorporating redactions of personal identifiers requested by  
22 John W. Nickel, attorney of record, in accordance with Judicial  
23 Conference policy. Redacted characters appear as noted in the  
24 Redaction Request.

25 */s/ Cathleen E. Marquardt*  
Federal Official Court Reporter